

Decision 04-04-006 April 1, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

William Leach,

Complainant,

vs.

Pacific Gas and Electric Company,

Defendant.

(ECP)

Case 03-05-010

(Filed May 6, 2003)

**OPINION DENYING PETITION TO MODIFY
DECISION (D.) 03-08-015**

Summary

William Leach (Complainant) requests that Decision (D.) 03-08-015 be modified to require Pacific Gas and Electric Company (PG&E) to relocate the electric service line to his water pump for \$500. He contends that the \$500 amount is “his half” of the total project cost because the assigned administrative law judge (ALJ) made such a ruling during the hearing held in this matter.

PG&E responds that the Commission’s decision accurately represents the substantive facts of the dispute, and at no time did either the ALJ or PG&E state that the \$500 amount PG&E had requested as an engineering deposit would represent Complainant’s half of the project cost.

The petition is denied because the record in this proceeding does not support Complainant’s assertions. This proceeding is closed.

Procedural Summary

The hearing in this matter was held on June 4, 2003, under the Commission's Expedited Complaint Procedure (Rule 13.2). D.03-08-015 was mailed on August 22, 2003. The petition was filed on September 25, 2003. PG&E filed its response on October 24, 2003. Complainant did not reply to PG&E's response, and this matter was submitted for decision on November 24, 2003.

Complainant's request for rehearing of D.03-08-015 is denied because the request was not timely filed with the Commission's Docket Office and did not meet the statutory 30-day filing requirement for such requests (Pub. Util. Code § 731(b)). This is a statutory requirement, which cannot be waived by the Commission. Complainant's request was in the form of a handwritten letter dated September 11, 2003, mailed to the Commission's Public Advisor, and it was not filed in the Commission's Docket Office until September 25, 2003, well past the statutory deadline. It is Complainant's responsibility, not the Public Advisor's responsibility, to timely file such requests with the Commission's Docket Office. Therefore, Complainant's request for rehearing is denied. However, we will address Complainant's request on the merits as a petition for modification.

Background

As stated in D.03-08-015, the electric meter serving Complainant's water pump is fixed to a pole located in a pasture which is part of Complainant's property. Complainant installed a new pole in the yard of his house and he wants PG&E to relocate its meter and service line to the new pole so that he can remove the existing pole from his pasture. PG&E provided "ball-park" estimates of \$1,000 and \$3,000, respectively, for two service line routings being considered by Complainant. PG&E stated that it would provide a firm estimate after

Complainant paid a \$500 engineering deposit required to develop the specific cost of the project. According to PG&E, there are significant costs involved in preparing a site specific engineering estimate, and the deposit would be applied to the total cost of the project contract, or used to offset any engineering costs incurred by PG&E if Complainant were to cancel the job. Complainant and PG&E personnel had several meetings and resolved all issues except who should pay for the relocation of the service line and meter.

In D.03-08-015, the Commission denied Complainant's claim that PG&E should share the cost of the relocation. The Commission concluded that the relocation was not required to correct an unsafe condition for PG&E's meter reader as argued by Complainant; therefore, Complainant should bear the entire cost of the relocation pursuant to PG&E Tariff Rule 16.F.2.b.

The Petition

After Complainant gave PG&E a check for \$500, on August 14, 2003, PG&E provided Complainant with a cost estimate requiring additional payment of \$1,660.62 to complete the project. Complainant disputes PG&E's request for the additional payment, claiming that the \$500 amount he had paid PG&E was his half of the project as ruled by the ALJ. Complainant seeks modification of D.03-08-015 accordingly.

Position of PG&E

According to PG&E, this is not the first time Complainant has, intentionally or unintentionally, misconstrued the purpose of the \$500 engineering deposit, and claimed that PG&E quoted him a total cost of \$500 for the relocation despite several communications advising Complainant of the deposit requirement.

PG&E states that on April 23, 2003, the Complainant contacted PG&E's manager and stated that he had taken steps to correct the safety infractions of the meter pole which he had installed for the relocation and was willing to pay the \$500 requested to relocate his facilities. PG&E reiterated that the \$500 requested was an engineering deposit required to develop the specific cost of the project, and that the deposit would be applied to the total cost of the project contract, or used to offset any engineering costs incurred by PG&E if the applicant were to cancel the job. The Complainant stated that he did not know if he wanted to go forward with the work without knowing the full cost of the job.

By letter dated April 25, 2003, PG&E confirmed the actions required to rearrange Complainant's service. By letter dated May 5, 2003, PG&E wrote again to Complainant, specifying the purpose of the \$500 engineering deposit and reiterating the corrective steps still required in order to attach service to the customer-owned meter pole.

Further, PG&E states that on June 4, 2003, at the conclusion of the hearing, the ALJ indicated that if Complainant wished to proceed with the project he should submit an application for service and a \$500 deposit to PG&E so that PG&E could prepare the estimate, and that the Commission would only rule on the issue of cost responsibility. According to PG&E, at no time did either the ALJ or PG&E state that the job would cost \$1,000, and the Complainant's \$500 payment would represent "his half" of the cost. PG&E points out there would be no point in estimating the job if such an order was given during the evidentiary hearing.

PG&E states that its cost estimates are valid for only 90 days; after 90 days, the job must be resubmitted for engineering at current costs. However, PG&E will honor the August 14, 2003, cost estimate up to 30 days following final

adjudication of this proceeding. If after 30 days the Complainant has not paid the remaining contract cost of \$1,660.62, PG&E will cancel the job. If either PG&E or the Complainant cancels the job, PG&E's costs incurred to date will be deducted from the \$500 deposit payment and the remaining funds, if any, will be refunded to the Complainant.

Discussion

We conclude that the record in this proceeding does not support Complainant's argument that the \$500 amount represented his half of the total cost. As the facts indicate, Complainant was advised more than once by PG&E that he had to pay a \$500 engineering deposit before PG&E would provide him with a firm estimate. Also, the deposit requirement was confirmed in writing by PG&E in its letter to Complainant dated May 5, 2003, sent before the hearing in this matter. Therefore, there would be no reason for the ALJ to tell Complainant at the hearing that his share of the cost was \$500. (See, affidavit of Sue Egan, estimator for PG&E, attached to PG&E's October 24, 2003 response to the petition.) We do not find Complainant's assertions credible and the petition should be denied.

Findings of Fact

1. Complainant requested that PG&E be ordered to relocate the service to his water pump, claiming that the relocation was needed for the safety of PG&E's meter reader.
2. In D.03-08-015, the Commission concluded that the relocation was not required for the safety of PG&E's meter reader and Complainant should bear the entire cost.
3. PG&E provided Complainant with "ball park" estimates of \$1,000 and \$2,000 depending on the routing selected by Complainant, and advised

Complainant that a firm estimate would be provided upon payment of a deposit of \$500 to cover the cost of engineering the estimate.

4. PG&E explained in a letter to Complainant sent before the hearing that the \$500 amount was a deposit for an engineering estimate, which would be applied to the total cost if Complainant decided to proceed with the project.

5. Complainant contends that D.03-08-015 should be modified because the ALJ stated at the hearing that Complainant's half share of the cost would be \$500.

6. At no time did PG&E or the ALJ advise Complainant that his half share would be \$500.

Conclusions of Law

1. The evidence shows that, before the hearing, PG&E corrected in writing Complainant's attempt to mischaracterize the \$500 deposit requirement as his share of the project cost.

2. There is no basis for Complainant's argument that PG&E or the ALJ agreed at the hearing that Complainant's half share of the project cost would be \$500.

3. The Complainant's pleading challenging the outcome of D.03-08-015 was improperly submitted to the Public Advisor, and was not filed in time to be an application for rehearing, but may be treated as a petition for modification.

4. The Complainant has not shown legal error in D.03-08-015, nor has the Complainant established any other basis for changing D.03-08-015.

5. The Complainant's petition to modify D.03-08-015 should be denied.

O R D E R

IT IS ORDERED that:

1. The petition for modification of Decision 03-08-015 is denied.
2. This proceeding is closed.

This order is effective today.

Dated April 1, 2004, at San Francisco, California.

MICHAEL R. PEEVEY

President

CARL W. WOOD

LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

Commissioners